



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
6TH AND WALNUT STREETS  
PHILADELPHIA, PENNSYLVANIA 19106

SEP 20 1984

Altaf A. Memon  
Emergency and Remedial Response Section  
Bureau of Solid Waste Management  
Department of Environmental Resources  
P.O. Box 2063  
Harrisburg, PA 17120

Dear Mr. Memon:

In reply to your concerns stated in your September 5, 1984 letter, I wish to base my comments on the following excerpt from CERCLA Section 104 (c)(3):

The President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that (A) the State will assure all future maintenance of the removal and remedial actions provided for the expected life of such actions as determined by the President; (B) the State will assure the availability of a hazardous waste disposal facility.....for any necessary offsite storage, destruction, treatment, or secure disposition of the hazardous substances,.....

One valuable piece of information which I have yet to review is the "agreement" between EPA and DER as mentioned in the second paragraph of your letter. In the above excerpt, all future maintenance would not imply an expiring period of time, unless the expected life of the treatment facility was limited, in this case, to one year (6 months EPA and 6 months DER).

My interpretation of "expected life" does not end when the remedial phase of work began, but when it is determined that the operation of the facility is no longer necessary, or it is replaced by a remedial action.

Based on the above rationale, DER must continue to operate and maintain the air stripper collection and treatment facility.

In dealing with the issue of the spent carbon cannisters; on many sites, collected waste which had migrated offsite have been returned to the site of origin. By doing this, these wastes will be handled (disposed) during the implementation of remedial measures. In Tyson's case, it may be more feasible to store and continue to store the spent cannisters offsite. You are referred to the excerpt again in that temporary storage requirements must be in compliance with the requirements of Subtitle C of the Solid Waste Disposal Act.

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As pointed out in your letter and documented in the Remedial Investigation Report, the air stripper is not capable of removing all contaminants contained in the collected leachate. Although we are close to issuing a ROD which will conduct treatability studies on the leachate and upgrade the air stripper, I also feel an Initial Remedial Measure, to deal solely with the air stripper, will greatly accelerate improving the existing treatment. Your assessment of design variables required for improving plant efficiency will be incorporated in the treatability studies.

The question of "ownership" was mentioned twice; once with regard to the air stripper and again in discussing the spent carbon canisters. I will continue to seek a legal interpretation; however, until I can provide you with one, I believe that once EPA has installed or implemented emergency/removal and or remedial measures, the equipment, facilities, supplies, etc. purchased with Federal funds then become the ownership of the state where the response was implemented. As an analogy, the Federal Government does not own every wastewater treatment plant constructed with Federal Water Pollution Control Act and Clean Water Act monies.

Should you have any questions concerning my reply or wish to discuss any of the issues further, please do not hesitate to contact me.

Sincerely,

*Joseph P. Dugandkic*

Joseph P. Dugandkic  
Remedial Project Officer

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